

San Andreas CA
95249

APR 08 2024

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOUGLAS MURPHY,
PLAINTIFF

CASE NO.

1:24 CV 00417 EPG (PC)

✓

JURY DEMAND

CHARLES B. SMITH; NATHAN
NUTTING; CHARLES FRYE;
LEIGHT FIEMING; APRIL ASBEL; ATTY. FITZGERALD;
ATTY. AIVAREZ; ATTY. CIUMMO; LAW FIRM OF
FITZGERALD, AIVAREZ & CIUMMO; AS YET TO BE
IDENTIFIED JOHN/JANE DOE EMPLOYEE'S OF FITZGER-
ALD, AIVAREZ & CIUMMO # 1-10; LAW FIRM/LLP OF
CHARLES B. SMITH & NATHAN NUTTING; DAVID SINGER;
TIMOTHY S. HEALY; MARTIN C. SUITS; BARBARA

DEFENDANTS

ASOS 80 RMA

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PPCOP

COMPLAINT

I. JURISDICTION:

IN SO FAR AS THE DEFENDANTS NAMED HEREIN
~~(S)~~ WILLFULLY AND KNOWINGLY VIOLATED THE PLAINTIFF'S
CIVIL RIGHTS WHILE ACTING UNDER COLOR OF
STATE LAW, JURISDICTION IS PROPERLY CONFERRED
UPON THE HONORABLE U.S. DISTRICT COURT PURSUANT
TO 42 U.S.C.A. 1983 AND 28 U.S.C.A. 1333.

FURTHER, AND IN SO FAR AS THE PLAINTIFF PLEADS,
AND SEEKS DAMAGES FOR, STATE CLAIMS DERIVING
FROM A NUCLEUS OF OPERATIVE FACTS COMMON WITH
THE FEDERAL CONSTITUTIONAL CLAIM(S), THE PLAINTIFF
RESPECTFULLY MOVES THE COURT TO INVOKE IT'S
PENDENT JURISDICTION TO HEAR STATE CLAIMS.

II PARTIES:

1. THE PLAINTIFF IS DOUGLAS MURPHY, HEREINAFTER
MURPHY. MURPHY IS PRESENTLY AWAITING TRIAL IN
CALAVERAS COUNTY IN CRIMINAL MATTER 22F8546.
MURPHY WAS TRANSPORTED FROM CONNECTICUT TO
CALIFORNIA PURSUANT TO THE 'INTERSTATE AGREEMENT
ON DETAINERS', HEREINAFTER 'IAD' - 18 USC
APPENDIX II | CA. PENAL CODE 1389. MURPHY IS
PRESENTLY HELD IN THE CALAVERAS COUNTY JAIL
LOCATED AT 1045 JEFF TUTTLE DR SAN ANDREAS,
CA 95249 MURPHY.Douglas96712@gmail.com

2. DEFENDANT CHARLES B. SMITH, HEREINAFTER SMITH, IS AN ATTORNEY/ MEMBER OF THE CALIFORNIA BAR. SMITH IS ALLEGED TO HAVE CONSPIRED/WILFULLY PARTICIPATED IN A PROMULGATED PRACTICE TO VIOLATE MURPHY'S CIVIL RIGHTS UNDER COLOR OF STATE LAW AND/OR COMMITTED LEGAL MALPRACTICE UNDER STATE LAW. SMITH IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS INDIVIDUAL AND OFFICIAL CAPACITIES. ADDRESS TO BE PROVIDED.

3. DEFENDANT NATHAN NUTTING, HEREINAFTER NUTTING, IS AN ATTORNEY/ MEMBER OF THE CALIFORNIA BAR. NUTTING IS ALLEGED TO HAVE CONSPIRED/WILFULLY PARTICIPATED IN A PROMULGATED PRACTICE TO VIOLATE MURPHY'S CIVIL RIGHTS UNDER COLOR OF STATE LAW AND/OR COMMITTED LEGAL MALPRACTICE UNDER STATE LAW. NUTTING IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. ADDRESS TO BE PROVIDED

4. DEFENDANT CHARLES FRYE, HEREINAFTER FRYE, IS AN ATTORNEY/ MEMBER OF THE CALIFORNIA BAR. FRYE IS ALLEGED TO HAVE CONSPIRED/WILFULLY PARTICIPATED IN A PROMULGATED PRACTICE TO VIOLATE MURPHY'S CIVIL RIGHTS UNDER COLOR OF STATE LAW AND/OR COMMITTED LEGAL MALPRACTICE UNDER STATE LAW. FRYE IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. ADDRESS TO BE PROVIDED.

5. DEFENDANT LEIGH FLEMING, HEREINAFTER FLEMING, IS AN ATTORNEY EMPLOYED BY THE LAW FIRM OF FITZGERALD, ALVAREZ & CIUMMO / THE CALAVERAS PUBLIC DEFENDERS OFFICE. FLEMING IS ALLEGED TO HAVE CONSPIRED/WILFULLY PARTICIPATED IN A PROMULGATED PRACTICE TO VIOLATE MURPHY'S CIVIL RIGHTS UNDER COLOR OF STATE LAW AND/OR COMMITTED LEGAL MALPRACTICE UNDER STATE LAW. FLEMING IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HER OFFICIAL AND INDIVIDUAL CAPACITIES.

6. DEFENDANT APRIL ASBEI - TO BE PROVIDED

7. DEFENDANT ATTY. FITZGERALD - TO BE PROVIDED

8. DEFENDANT ATTY. ALVAREZ - TO BE PROVIDED

9. DEFENDANT ATTY. CIUMMO - TO BE PROVIDED

10. DEF. FITZGERALD, ALVAREZ & CIUMMO - TO BE PROVIDED

11. DEFENDANT DAVID SINGER, HEREINAFTER SINGER, IS AN ATTORNEY/MEMBER OF THE CALIFORNIA BAR WHO IS CONTRACTED WITH CALAVERAS COUNTY TO PROVIDE LEGAL SERVICES VIA THE CONFLICT PANEL. SINGER IS ALLEGED TO HAVE CONSPIRED/WILFULLY PARTICIPATED IN A PROMULGATED PRACTICE TO VIOLATE MURPHY'S CIVIL RIGHTS UNDER COLOR OF STATE LAW AND/OR COMMITTED LEGAL MALPRACTICE UNDER STATE LAW. SINGER IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. ADDRESS TO BE PROVIDED.

12. DEFENDANT TIMOTHY S. HEALY, HEREINAFTER HEALY, IS A SITTING JUDGE ON THE CALIFORNIA'S SUPERIOR COURT. HEALY IS BEING SUED FOR DECLARATORY RELIEF/JUDGEMENT ONLY, JOINTLY AND SEPARATELY, IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES.

13. DEFENDANT MARTIN C. SUITS, HEREINAFTER SUITS, WAS THE SITTING JUDGE IN 22F0546 ON 2/8/24 ALSO 2/13/24. SUITS IS BEING SUED FOR DECLARATORY RELIEF/JUDGEMENT ONLY, JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES.

14. DEFENDANT BARBARA YOOL, HEREINAFTER YOOL, IS THE CALIFORNIA DISTRICT ATTORNEY. YOOL WAS AT ALL TIMES ACTING UNDER COLOR OF STATE LAW AND IS BEING SUED JOINTLY AND SEPARATELY, IN BOTH HER OFFICIAL AND INDIVIDUAL CAPACITIES.

15. DEFENDANT DALIA PFEIL, HEREINAFTER PFEIL, IS A DEPUTY DISTRICT ATTORNEY, AT ALL TIMES ACTING UNDER COLOR OF STATE LAW. PFEIL IS BEING SUED JOINTLY AND SEPARATELY, IN BOTH HER INDIVIDUAL CAPACITIES. PFEIL IS ALSO BEING SUED FOR MALICIOUS PROSECUTION AND INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS UNDER STATE LAW.

16. DEFENDANT BRADLEY JONES, HEREINAFTER JONES, IS A DEPUTY DISTRICT ATTORNEY, AT ALL TIMES ACTING UNDER COLOR OF STATE LAW. JONES IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. JONES IS ALSO BEING SUED -

16. (CONT'D) FOR MALICIOUS PROSECUTION AND
I.I.E.D. UNDER STATE LAW.

17. DEFENDANT GARY TOFALELLI, HEREINAFTER
TOFALELLI, SITS ON THE CALAVERAS BOARD OF
SUPERVISORS AND WILLFULLY PROMULGATED AN UNLAWFUL
PRACTICE THAT HE KNEW WAS DEPRIVING CRIMINAL
DEFENDANTS OF THEIR CIVIL LIBERTIES. TOFALELLI
WAS AT ALL TIMES ACTING UNDER COLOR OF STATE
LAW AND IS BEING SUED JOINTLY AND SEPARATELY,
IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES.
TOFALELLI IS ALSO BEING SUED FOR MAIFEASANCE
UNDER STATE LAW.

18. DEFENDANT MARTIN SHUBERTY, HEREINAFTER
SHUBERTY, SITS ON THE CALAVERAS BOARD OF SUPERVISORS
AND WILLFULLY PROMULGATED AN UNLAWFUL PRACTICE THAT
HE KNEW WAS DEPRIVING CRIMINAL DEFENDANTS OF
THEIR CIVIL LIBERTIES. SHUBERTY WAS AT ALL TIMES
ACTING UNDER COLOR OF STATE LAW AND IS BEING SUED
JOINTLY AND SEPARATELY, IN BOTH HIS OFFICIAL AND
INDIVIDUAL CAPACITIES. SHUBERTY IS ALSO BEING SUED
FOR MAIFEASANCE UNDER STATE LAW.

19. DEFENDANT AMANDA FOELENDORF, HEREINAFTER
FOELENDORF, SITS ON THE CALAVERAS BOARD OF
SUPERVISORS AND WILLFULLY PROMULGATED AN UNLAWFUL
PRACTICE THAT SHE KNEW WOULD DEPRIVE CRIMINAL
DEFENDANTS OF THEIR CIVIL LIBERTIES. FOELENDORF WAS
AT ALL TIMES ACTING UNDER COLOR OF STATE LAW -

19. (CONT'D) AND IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HER OFFICIAL AND INDIVIDUAL CAPACITIES. FOIENDORF IS ALSO BEING SUED FOR MAIFIERSANCE UNDER STATE LAW.

20. DEFENDANT JACK GARAMENDI, HEREINAFTER GARAMENDI, SITS ON THE CALAVERAS BOARD OF SUPERVISORS AND WILLFULLY PROMULGATED A PRACTICE THAT HE KNEW WOULD DEPRIVE CRIMINAL DEFENDANTS OF THEIR CIVIL RIGHTS. GARAMENDI WAS AT ALL TIMES ACTING UNDER COLOR OF STATE LAW AND IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. GARAMENDI IS ALSO BEING SUED FOR MAIFIERSANCE UNDER STATE LAW.

21. DEFENDANT BENJAMIN STOPPER, HEREINAFTER STOPPER, SITS ON THE CALAVERAS BOARD OF SUPERVISORS AND WILLFULLY PROMULGATED AN UNLAWFUL PRACTICE THAT HE KNEW WOULD VIOLATE CRIMINAL DEFENDANTS CIVIL RIGHTS. STOPPER WAS AT ALL TIMES ACTING UNDER COLOR OF STATE LAW AND IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HIS OFFICIAL AND INDIVIDUAL CAPACITIES. STOPPER IS ALSO BEING SUED FOR MAIFIERSANCE UNDER STATE LAW.

22. DEFENDANT MARGARET SMITH, HEREINAFTER SMITH, SITS ON THE CALAVERAS BOARD OF SUPERVISORS AND WILLFULLY PROMULGATED A PRACTICE THAT SHE KNEW WOULD DEPRIVE CRIMINAL DEFENDANTS OF THEIR CIVIL RIGHTS. SMITH, M WAS AT ALL TIMES ACTING

22. (CONT'D) UNDER COLOR OF STATE LAW AND IS BEING SUED JOINTLY AND SEPARATELY IN BOTH HER OFFICIAL AND INDIVIDUAL CAPACITIES. Smith, M IS ALSO BEING SUED FOR MALFEASANCE UNDER STATE LAW.

23. DEFENDANT THERESA Hitchcock, HEREINAFTER Hitchcock, SITS ON THE CALIFORNIA BOARD OF SUPERVISORS AND WILLFULLY PROMULGATED AN UNLAWFUL PRACTICE THAT SHE KNEW COULD DEPRIVE CRIMINAL DEFENDANTS OF THEIR CIVIL RIGHTS. Hitchcock WAS AT ALL TIMES ACTING UNDER COLOR OF STATE LAW AND IS BEING SUED JOINTLY AND SEPARATELY, IN BOTH HER OFFICIAL AND INDIVIDUAL CAPACITIES. Hitchcock IS ALSO BEING SUED FOR MALFEASANCE UNDER STATE LAW.

24. All BOARD OF SUPERVISORS MEMBERS MAINTAIN AN OFFICE LOCATED AT 891 MOUNTAIN LAUREL RD SAN ALONDEAS, CA 95249

25. DEFENDANTS YOLE, PFEIL AND JONES MAINTAIN AN OFFICE LOCATED AT DISTRICT ATTORNEY'S OFFICE 891 MOUNTAIN LAUREL RD SAN ALONDEAS, CA 95249

* 26- SO RESERVED FOR AS YET TO BE IDENTIFIED DEFENDANTS.

III. FACTS GIVING RISE TO CAUSE(S) OF ACTION

MURPHY WAS INDICTED BY GRAND JURY IN CRIMINAL MATTER 22F8546 ON 9/23/22.

S1. MURPHY PLED GUILTY TO A TECHNICAL PROBATION VIOLATION IN TORRINGTON, CT AND WAS SENTENCED TO A FOUR(4) YEAR TERM OF STATE INCARCERATION ON 3/30/23. MURPHY WAS A SENTENCED CONNECTICUT STATE INMATE ON 3/30/23.

S2. PURSUANT TO MURPHY'S 3/30/23 SENTENCE HE IS ELIGIBLE TO BE RELEASED ON PAROLE OR/LOR AFTER 4/28/24.

S3. THE CALAVERAS COUNTY DISTRICT ATTORNEY (CCDA) LODGED A FORMAL DETAINER AGAINST MURPHY WITH THE CT DOC ON 4/5/23.

S4. CALIFORNIA AUTHORITIES INITIALLY FORWARDED A "REQUEST FOR CUSTODY" TO CT AUTHORITIES ON 9/23/22, THE SAME DATE MURPHY WAS INDICTED.

S5. MURPHY EXECUTED A FORMAL IAD/1389 REQUEST FOR DISPOSITION ON ALL UNTRIED INDICTMENTS PURSUANT TO PC 1389 ARTICLE III ON 4/10/23 WITH CT DOC (§) (MACDOUGALL-WALKER, C.I.) WARDEN DANIEL DOUGHERTY.

S6. WARDEN DOUGHERTY'S OFFICE FORWARDED A COMPLETE, PROPERLY FORMATTED 'IAD/1389 PACKAGE' TO BOTH THE CALAVERAS DISTRICT ATTORNEY'S OFFICE AND TO THE SUPERIOR COURT VIA CERTIFIED RETURN RECEIPT REQUESTED U.S. MAIL PURSUANT TO ART. III(B)

57. THE TWO (2) SEPARATE INDIVIDUAL IAD PACKAGES WERE RECEIVED AND SIGNED FOR BY CALAVERAS COUNTY MAIL ROOM EMPLOYEE STACIE LINK ON 4/24/23. LINK IS A MAIL ROOM EMPLOYEE AT THE CALAVERAS COUNTY GOVERNMENT CENTER (COURT SEAT LOCATED AT 891 MOUNTAIN RANCH RD SAN ANDEAS, CA 95249.)

58. THE MAIL ROOM AT THE GOVERNMENT CENTER IS A SEPARATE SPECIFICALLY DESIGNATED MAIL ROOM WITH CONSISTENT DESIGNATED EMPLOYEE'S.

59. THE CALAVERAS SUPERIOR COURT MAINTAINS A SPECIFIC, CLEARLY DESIGNATED MAIL BOX (#17) IN THE MAIL ROOM. MAIL BOX # 17 IS CLEARLY LISTED AND DISPLAYED ON THE MAIL ROOMS DIRECTORY OF MAIL BOXES AND DESIGNATED AS 17.

60. AT THIS MAIL ROOM, THE COURT, ON A DAILY BASIS, SENDS AND RECEIVES INTERAGENCY MAIL. THE MAIL ROOM ALSO PROCESSES ANY MAIL IT RECEIVES FOR THE COURT BY PLACING IT IN THE COURT'S MAIL BOX. THE MAIL IS ROUTINELY PROCESSED. THE GOVERNMENT CENTER MAIL ROOM CLERKS WILL SIGN FOR MAIL ADDRESSED TO THE COURT AND PUT IT IN THE COURT'S MAIL BOX.

61. ON 4/24/23 THE IAD PACKAGE DESIGNATED FOR THE COURT WAS EITHER PROVIDED DIRECTLY TO A COURT CLERK, OR PLACED INTO THE COURT'S MAIL BOX, # 17.

62. ON OR ABOUT 4/24/23 THE IAD PACKAGE DESIGNATED FOR THE COURT WAS RETRIEVED BY COURT STAFF FOR PROCESSING.

63. MURPHY'S 9/03/22 INDICTMENT (22F8546) WAS BY GILDED JULY. AS SUCH IT IS THE COURT'S PRACTICE TO KEEP THOSE FILES SEALED/CLOSED UNTIL ARR AIGMENT.

64. ON OR ABOUT 4/24/23 COURT STAFF OPENED MURPHY'S FORMAL IAD PACKAGE, REALIZED THAT IT WAS AN OFFICIAL/FORMAL DOCUMENT, AND FILE STAMPED IT AS RECEIVED.

65. UPON DISCOVERING THAT MURPHY'S CASE FILE ON 22F8546 WAS SEALED, AND REALIZING THAT THE 1389 DOCUMENTS WERE TIME SENSITIVE, 1389 SPEEDY TRIAL DOCUMENTS, THE COURT CLERK FORWARDED MURPHY'S IAD PACKAGE TO THE DISTRICT ATTORNEY'S OFFICE.

* 66. THE DA ACKNOWLEDGES RECEIPT OF PTF'S IAD PACKAGE ADDRESSED TO THE DA ON 4/24/23.

* 67. THE DA DENIES ANY KNOWLEDGE OF WHAT HAPPENED TO THE PTF'S IAD PACKAGE ADDRESSED TO THE COURT SUBSEQUENT TO BEING SIGNED FOR BY STACIE LINT ON 4/24/23.

68. THE DA RECEIVED THE IAD PACKAGE ADDRESSED TO THE COURT.

69. CT DOC OFFICIALS REPEATEDLY COMMUNICATED WITH CA OFFICIALS IN COORDINATING PTF'S TRANSPORT

(CONT'D) FROM CT TO CA ON 6/23/23.

- * 70. ON 6/7/23 CA ADIA BRADLEY JONES AND CA SUPERIOR COURT JUDGE TIMOTHY HEALY EXECUTED 'PROSECUTOR'S ACCEPTANCE OF CUSTODY' (IAD FORM VII).
71. IAD FORM VII SUFFICES FOR RECEIVING STATES 'written REQUEST FOR TEMPORARY CUSTODY' PURSUANT TO PC 1389 ARTICLE IV(a) AND US V. MAURO, 436 U.S. 340.
72. CALAVERAS COUNTY SHERIFF'S TOOK CUSTODY OF PITF IN CT ON 6/23/23 AND RETURNED HIM TO CA ON 6/23/23 TO STAND TRIAL IN 22F8546.
73. PITF MADE HIS FIRST APPEARANCE IN COURT ON 6/26/23 AND WAS APPOINTED ATTY LEIGH FLEMING FROM THE PUBLIC DEFENDERS OFFICE.
74. PUBLIC DEFENDER SERVICES IN CALAVERAS COUNTY ARE CONTRACTED TO THE LAW FIRM OF FITZGERALD, ALVAREZ, AND CIUMMO. (cw)
75. THE COMPLAINING WITNESS IN PITF'S CRIMINAL MATTER (22F8544) IS KRISTINA D. THE PUBLIC DEFENDERS OFFICE HAD REPRESENTED KRISTINA D ON AT LEAST TWO PRIOR OCCASIONS.
- * 76. ON 6/26/23 PITF INFORMS THE COURT ON THE RECORD THAT HE IS A CT STATE PRISONER HERE ON AN IAD/1389 TRANSPORT AND ASSERTED HIS DEMAND FOR A SPEEDY TRIAL.
77. 2ND CRT: 6/30/23 - CONTINUED ARRAIGNMENT, ASSERT SPEEDY TRIAL DEMAND

78. IN ADDITION TO THE CONFLICT OF INTEREST,
IN THE INTERIM PERIOD BETWEEN 6/30/23 - 7/14/23
FLEMING DISPLAYS GROSS INCOMPETENCE.

79. 3rd CRT: 7/14/23 PTF OFFERS ORAL MARSDEN
MOTION SEEKING NEW COUNSEL. SPECIFYING NUMEROUS
DETAILED ACCOUNTS OF FLEMING'S VIOLATIONS OF THE RULES
OF PROFESSIONAL CONDUCT AND CONFLICTS. COURT ABUSES
DISCRETION AND AUTOMATICALLY DENIES MARSDEN. PTF
IS ARRAIGNED. ASSERTS SPEEDY TRIAL.

80. 40NCR 24/23 PTF MAILED WRITTEN PRO SE MARSDEN
MOTION TO COURT CLERK. MOTION IS STAMPED RECEIVED BY
CLERK ON 7/31, IS NOT FILED, AND SIMPLY FORWARDED
TO FLEMING, WHO DID NOT FILE IT AND SIMPLY RETURNED
IT TO PTF VIA U.S. MAIL UNFILED.

81. THE CLERK'S FAILURE TO FILE PTF'S PRO SE MARSDEN
MOTION WAS UNLAWFUL.

82. PTF FORCES PUBLIC DEFENDER'S OFFICE TO FILE A
REQUEST FOR HEARING ON 7/28/23 TO HEAR PTF'S NEW
MARSDEN MOTION.

* 83. 4th CRT: 8/4/23 - MARSDEN HEARING; THE
COURT OPINES THAT PTF'S WRITTEN MARSDEN IS DISFAVORED/
ATYPICAL (WE TYPICALLY DON'T ALLOW WRITTEN MOTIONS) AND
REFUSES TO FILE. PTF'S PROVIDES TWENTY MINUTE DETAILED
ACCOUNT OF INEFFECTIVE COUNSEL, CONFLICT OF INTEREST,
AND IRRECONCILABLE DIFFERENCES. THE COURT IS ABOUT TO
ARBITRARILY DENY PTF'S MOTION UNTIL FLEMING
ANNOUNCES THAT SHE DOES IN FACT HAVE A CONFLICT

* (CONT'D) AND MOVES THE COURT TO WITHDRAW HER APPEARANCE. THE COURT ALLEGES FLEMING TO WITHDRAW BASED ON HER ANNOUNCED CONFLICT OF INTEREST. (THE ADA, DALIA PFIEL WOULD LATER FILE IN WRITING IN 'PEOPLES' BRIEF AND REQUEST FOR FINDINGS FILED ON STATING THAT FLEMING WAS FIRED). PITF ASSERTS SPEEDY TRIAL, NO TOLL.

* 84. 5TH CRT: 8/7/23 - ATTY. DAVID SINGER DECLINES APPOINTMENT; STATING "I'M A SOLO PRACTITIONER," "I HAVE NO STAFF," "I'LL GO BANKRUPT," "I DON'T HAVE THE RESOURCES." ASSERT S.T. NO TOLL

K 85. 6TH CRT: 8/11/23 - ATTY. CHARLES SMITH DECLINES APPOINTMENT Citing NUMEROUS CONFLICTS IN THIS SCHEDULED. ACCEPT S.T. NO TOLL TO 86A ACT 7TH CRT 8/14/23 - NO ATTORNEY PRESENT. PITF SUGGESTS TEMPORARY PRO PER STATING THAT HE IS PRESSING FOR A SPEEDY TRIAL AND THAT THERE HAS BEEN NO PROGRESS SINCE HIS DEFENSE ATTEMPTS TO FILE PREVIOUS WITHHELD/MARSHAL MOTIONS FOR THE RECORD. COURT LIES, ACCEPTS MOTIONS BUT DOES NOT FILE OR RETURN MOTIONS. ASSERT S.T. NO TOLL

87. 8TH CRT: 8/18/23 - ATTORNEY NATHALI NUTTING DECLINES APPOINTMENT. ASSERT S.T. NO TOLL

* 88. 9TH CRT: 8/21/23 Prior to OPEN COURT BEGINNING, JUDGE HEALY FORCES ATTY. DAVID SINGER TO ACCEPT APPOINTMENT. SINGER APPOINTED, CONTINUES TRIAL DATE OVER PITF'S REASONABLE OBJECTION. PITF -

(CONT'D) REMOVED FROM COURT ROOM FOR OBSTRUCTING
TO CONTINUANCE & HIS APPEARANCE.

* 89. INTERIM 8103103 ATF HAS A SERIES OF
LEGALLY RECORDED CONSENTED TO ALONE CONVERSATIONS
WITH ATTY. SINGER. (PITE POSSESSES THE TRANSCRIPTS)
209 - 743-8153 ① 15:26:44; ② 15:43:34 - SINGER
STATES THAT HE WAS FORCED TO ACCEPT PITE'S CASE;
"THEIR REMEDY (THE COURTS/HEALY) IS TO GO SOMEWHERE
ELSE, FIND SOMEBODY ELSE, NOT MOVE YOUR TRIAL."
"AND LIKE I TOLD YOU, AFTER THE FIRST HEARING (8/7)
WHEN I LEFT THE COURT ROOM, I KNEW THE JUDGE WAS
NOT HAPPY WITH, THE SECOND TIME, IT'S LIKE THE
POINT OF POSITION WHERE I HAVE TO CHOOSE BETWEEN
MY LIVELIHOOD AND MY CLIENT. 'YOU DON'T WANT TO
SHIT WHERE YOU EAT!' SINGER FURTHER STATED
THAT HE WOULD NOT HAVE A PROBLEM FILING A COMPLAINT
AGAINST JUDGE HEALY.

90. 10TH CR: 8103103 - ATTY. SINGER INFORMS PITE THAT HE'S NEVER
BEEN INVOLVED IN A JURY TRIAL OF A CASE OF
PITE'S MAGNITUDE.

91. 10TH CR: 8103103 - ATTY. SINGER FILES A
MOTION TO WITHDRAW DUE TO CONFLICT OF INTEREST
ALONG WITH PITE'S MARSDELI MOTION.

92. 10TH CR: 8103103 - JUDGE HEALY GRANTS
SINGER'S MOTION TO WITHDRAW, DEEMS PITE'S
MARSDELI MOTION MOOT.

- * 93. 11TH CRT: 8/29/23 - JUDGE HEALY ATTEMPTS TO APPOINT HIS FORMER COURT CLERK (ATTY. CHARLES FRYE) WHO HAS JUST PASSED THE BAR TWO YEARS EARLIER. FRYE INFORMS THE COURT THAT A) HE CAN'T BE READY FOR TRIAL. THE COURT INQUIRES / PUSHES WITHEN COULD YOU BE READY. FRYE STATES THAT HE'S PROBABLY NOT QUALIFIED TO ACCEPT A CASE OF THIS MAGNITUDE.
94. 18/29/23, EARLIER (OFF THE RECORD) HEALY ASKS ATTY. KEL Foley TO ACCEPT PITE'S CASE. Foley EXPLAINED HOW MUCH INVESTIGATION WAS INVOLVED AND DECLINED.
- * 95. 12TH CRT: 9/1/23 - ATTY. JEROME CLAY (ADMITTED TO BAR ON 11/21/19) FROM FOREIGN COUNTY ACCEPTS APPEARANCE VIA ZOOM.
- * 96. 13TH CRT: 9/6/23 - ATTY. JAH MARTIN APPEARS VIA ZOOM STATING: A) ATTY. CLAY WAS ONLY ACCEPTING SPECIAL APPEARANCE FOR HIM (MARTIN) ON 9/1; B) MARTIN WAS NOT AWARE OF THE ACTUAL CHARGES UNTIL 9/6; AND C) HE HANDLES MISDEMEANOR CASES ONLY AND PITE'S CASE IS 'OUT OF HIS COMFORT ZONE.' ATTY. MARTIN IS ALLOWED TO WITHDRAW.
- * 97. 19/7/23 - PEOPLE FILED PEOPLE'S BRIEF OUT PENAL CODE 1389 AND 1382 AND REQUEST FOR FINDINGS (D.D.A. DANA L. PFEIL WILLFULLY MISREPRESENTS THE FACTS / LIES STATING "ON AUGUST 4, 2023 THE DEFENDANT ARGUED A MARSDEN MOTION WHICH WAS GRANTED)

(CONT'D) REMOVING THE PUBLIC DEFENDER AS COUNSEL FOR THE DEFENDANT.

98. D.D.A. PFEIL REPEATEDLY MAKES INTENTIONAL MISREPRESENTATIONS IN PEOPLE'S 9/7/23 FILING AND INTENTIONALLY TAKES ADVANTAGE OF THE PTF's 'UNCOUNSELED' POSITION

99. D.D.A. PFEILS 9/7/23 REQUESTS FOR FINDINGS MOVES THE COURT TO FIND THAT 'DEFENDANT'S MARSDEN MOTION WAS GRANTED ON 8/4/23.' IN FACT, P.D. FLEMING SPECIFICALLY MOVED THE COURT TO WITHDRAW FOR CONFLICT. (PEOPLES BRIEF AT 7.)

100. D.D.A. PFEIL INTENTIONALLY MISREPRESENTS THE RECORD/LIES STATING: "THE FILING OF DEF.'S MARSDEN MOTION, AND SUBSEQUENT FIRING OF HIS ATTORNEY, CAUSED A DELAY...." (PEOPLES BRIEF AT 8);

101. D.D.A. PFEIL INTENTIONALLY MISREPRESENTS THE RECORD/LIES STATING "DUE TO DEFENDANT'S ACTIONS IN FIRING HIS COUNSEL, THE PUBLIC DEFENDER AND ALTERNATE COUNSEL MR. SINGER" (PEOPLES BRIEF AT 17).

102. 14TH CERT: 9/8/23 - NO COUNSEL. ASSERT S.T.

103. 15TH CERT: 9/12/23 - NO COUNSEL. ASSERT S.T.

104. 16TH CERT: 9/13/23 - NO COUNSEL. PTF REQUESTS SE 1382 DISMISSAL; HEALY (OPINES THAT NO COUNSEL IS GOOD CAUSE TO CONTINUE BAST 9/12 (60 DAY 1382 LIMIT). PTF REQUESTS LIST OF NAMES/ATTY'S CONTACTED; ACTIONS TAKEN TO SECURE COUNSEL - DENIED.

105. 17TH CRT: 9/15/23 - NO COUNSEL. PTF REQUESTS 'PRO PER' STATUS TO GAIN ACCESS TO LEGAL MATERIAL/RESEARCH; STATE'S 'I'M BEING PREJUDGED BY MY INABILITY TO PROSECUTE MY DEFENSE.' HEALY STATE'S THAT THE PRO PER REQUEST IS 'PART OF A GAME.' PTF REFERS TO LOSS OF WITNESS. ASSERT S.T.

106. 18TH CRT: 9/20/23 - NO COUNSEL. ASSERT S.T.

107. 19TH CRT: 9/27/23 - NO COUNSEL. ASSERT S.T.

* 108. 20TH CRT: 9/28/23 - NO COUNSEL. COURT/HEALY VIACATES 10/3 TRIAL DATE. PTF OBJECTS. ASSERT S.T.

* 109. 9/12/23 - PTF FILES 'DEFENDANTS PRO SE REPLY TO PEOPLE'S 9/7/23 BRIEF & REQUESTS FOR FINDINGS.'

110. 21ST CRT: 10/3/23 - NO COUNSEL. ASSERT S.T.

111. 22ND CRT: 10/4/23 - NO COUNSEL. ASSERT S.T.

** 112. 23RD CRT: 10/6/23 - ATTY. CHARLES SMITH ACCEPTS APPOINTMENT. AFTER DECLINING APPOINTMENT DUE TO OVERRBURDENED SCHEDULE ON 8/11/23. PTF REQUESTS SMITH TO MEET/SPEAK WITH HIM ASAP TO DISCUSS PENDING 1389 ISSUES. SMITH REFUSES TO COMMUNICATE, STATING 'I'LL SEE YOU BEFORE NEXT WEEKS COURT.'

113. INTERIM PERIOD 10/6-10/13: PTF REPEATEDLY ATTEMPTS TO CONTACT SMITH BY PHONE. SMITH FAILS TO COMMUNICATE WITH PTF. PTF SUSPECTS THAT HEALY FORCED SMITH TO ACCEPT CASE AND THAT SMITH IS OVERRBURDENED WITH TOO MANY OTHER CLIENTS.

114. ATTY. SMITH'S PHONE LINE (650-346-3290) WAS NOT A SECURE LINE. IT WAS SUBJECT TO RECORDING.

8:30 a.m.

115. 24TH C.R.: 10/13/23 - PITF FILES AN INTENDED MARSDEN MOTION TO REMOVE SMITH. AND INADVERTENTLY INCLUDES 2 170.6 & 170.1 MOTIONS AGAINST JUDGE HEALY THAT WERE CONTAINED IN THE SAME FILE FOLDER HOLDING THE MARSDEN MOTION. HEARING PASSES TO 1:30 TO HEAR MARSDEN. 1:30 p.m.

116. 10/13/23: 1:30 p.m. - HEALY ANNOUNCES THAT THERE WERE THREE MOTIONS FILED AND IS VISIBLY ANGRY. PITF ATTEMPTS TO EXPLAIN THAT THE 170.1 & 170.6 MOTIONS WERE NOT INTENDED TO BE FILED. HEALY DOESN'T CARE, TELLS PITF TO BE QUIET OR BE REMOVED FROM THE COURTROOM. HEALY CLAIMS 170.6 IS UNTIMELY.

117. PITF ATTEMPTS TO EXPLAIN TO SMITH. SMITH YELLS AT PITF 'DON'T TALK TO ME!' 'DO YOU WANT TO BE REMOVED!' THE MATTER IS SET TO BE HEARD BEFORE JUDGE BOYACK ON 10/17/23.

118. 25TH C.R.: 10/17/23 - BEFORE JUDGE BOYACK. SMITH STATES THE 'HE' IS WITHDRAWING 170.1 & 170.6 MOTIONS (CLAIMS MOST BY PRO SE STATUS FOR BOTH 170.1 & 170.6) AND 170.6 UNTIMELY. SMITH DECLARIES HE IS 'READY/PREPARED' TO PROCEED TO TRIAL BY 10/23/23. PITF (TENTATIVELY) WITHDRAWS HIS MARSDEN MOTION.

* 119. 26TH C.R.: 10/18/23 - BEFORE JUDGE HEALY. HEALY DECLARIES TOLLED TIME OF 58 DAYS + 5 DAYS FOR 10/13-10/17 (63 DAYS). HEALY SETS TRIAL FOR 11/09/23 TR/TCC ON 11/17. HEALY ASKS DA IF THEY HAVE ANYTHING TO ADD. STATE REPHES NO. SMITH OBJECTS TO CONTINUANCE/TRIAL DATE.

120. BETWEEN 10/6/23 AND 10/31/23 Smith REFUSES TO MEET WITH PTF OR CONSULT WITH HIM IN CONFIDENCE.
121. BETWEEN 10/6/23 AND 11/10/23 PTF REPEATEDLY URGES SMITH TO MEET/CONSULT WITH HIM OR TO AT LEAST HAVE HIS PHONE # LISTED AS A 'SECURE ATT-CHELT' CALL PRECLUDING MONITORING/RECORDING. DESPITE THIS BEING A SIMPLE, FREE PROCESS, SMITH REFUSES TO CONVERT HIS # TO ALLOW CONFIDENTIAL COMMUNICATIONS.
122. ON 10/6/23, IN COURT, PTF ASKS SMITH IF HE IS AWARE OF PTF'S PC 1389 DEADLINE OF 10/21/23. SMITH STATES THAT HE HAS NOT CONSIDERED THE MATTER.
123. ON OR ABOUT 10/12/23 PTF ENLISTS FRYE'S ASSISTANCE TO HELP HIM NAVIGATE HIS 1389 ISSUES AND FORMALLY RETAINS FRYE'S PROFESSIONAL SERVICES VIA RETAILER AGREEMENT DATE 10/16/23.
124. THE PTF POSSESSES SUBSTANTIAL LEGAL ACUMEN, HAS STUDIED A NEAR EXHAUSTIVE BODY OF DICTUM, CONTROLLING 1389 / IAD LAW, AND HAS FRYE AGREE TO ALLOW THE PTF TO PARTICIPATE IN A LEGALLY MEANINGFUL WAY IN ARGUING HIS 1389 ISSUES IN A MOTION TO DISMISS AND/OR PETITION FOR PROHIBITION/MANDATE.
125. IN THE INTERIM DAYS BETWEEN 10/12/23 - 10/31/23 FRYE CONTINUALLY PROVIDES UPDATES ON HIS CRIMINAL DOCKET THAT SMITH HAS NOT REQUESTED ANY SUBPOENA'S NOR REQUESTED FUNDS FOR IAD EXPERT OR INVESTIGATOR.

126. ON A RECORDED CALL TO SMITH ON OR ABOUT 10/11/23 THE PTF PROVIDES THE NAME AND CONTACT INFORMATION FOR THE NAME OF THE PSYCHIATRIST PTF BELIEVES IS TREATING THE CW. SMITH SUBSEQUENTLY DENIES RECEIVING ANY MESSAGE.

127. IN OPEN COURT ON 10/13/23 SMITH LOUDLY CALLS THE PTF: "STUPID, STUPID, STUPID." THESE COMMENTS WERE HEARD BY THE COURT AND THE PUBLIC GALLERY.

128. ON 10/31/23 SMITH VISITS PTF AT THE JAIL. SMITH IMMEDIATELY THREATENS TO '1368' THE PTF TO INTIMIDATE HIM. THE THREAT HAS THE DESIRED EFFECT AND QUELLS PTF'S DESIRE/ABILITY TO PRESS FOR INFORMATION.

129. ON 10/31/23 PTF INQUIRIES AS TO WHEN SMITH IS GOING TO SUBPOENA THE CW'S MED/PYSCH RECORDS, THE CW'S CELL PHONE RECORDS, AND THE PTF'S CELL PHONE & BANK/CREDIT CARD RECORDS. SMITH VERY SPECIFICALLY AGREES TO SUBPOENA ABOVE. PTF AGAIN SUPPLIES CW'S PSYCHIATRIST'S INFO.

130. ON 10/31/23 SMITH INFORMS PTF THAT HE IS GOING TO HIRE A PRIVATE INVESTIGATOR TO LOCATE A CRUCIAL WITNESS.

131. ON 11/2/23 SMITH AGAIN VISITS WITH PTF AT THE JAIL AND BRINGS AN ALLEGED INVESTIGATOR. THE ONLY REASON SMITH APPEARS ON 11/2 IS BECAUSE HE IS AWARE OF THE 11/3 MARSDEN HEARING.

TOPLESS

- * 132. ON 11/2 WHILE SHOWING PTF PICTURES OF THE CLE SMITH COMMENTS "NICE BOOBS." THE PTF WAS DISGUSTED & DEMORALIZED BY SMITH'S COMMENT.
133. OUT OF DESPERATION AFTER PTF HAD RETAIKED (NY, J) PRIVATE COUNSEL TO ASSIST RICHARD J. FLYE AND ALLEGEDLY A MARSDEN MOTION TO REMOVE SMITH.
134. FLYE FILED AN 'APPLICATION FOR IMMEDIATE HEARING' ON 11/12/23 AND OBTAINED A 11/3 HEARING.
- 27TH CBT (NY) 135. AT THE 11/3 MARSDEN HEARING THE COURT (HEALY, J) ABUSED ITS DISCRETION IN REFUSING FLYE THE ABILITY TO PRESENT THE PTF'S COMPLAINTS.
136. AT THE 11/3 HEARING THE PTF AGREED WITH SPECIFICITY THAT SMITH FAILED/REFUSED TO CONVERT HIS PHONE & TO AN PRIVILEGED LINE. A SIMPLE TEN MINUTE PROCEDURE, DENIED PTF THE ABILITY TO COMMUNICATE WITH HIS ATTORNEY IN CONFIDENCE.
137. AT THE 11/3 HEARING THE PTF AGREED WITH SPECIFICITY THAT, AS RECORDED ON THE DOCKET, SMITH HAD FAILED TO OBTAIN ANY SUBPOENAS, FAILED TO OBTAIN (OR EVEN REQUEST) FUNDS FOR AN EXPERT, OR INVESTIGATOR.
138. AT THE 11/3 HEARING FLYE ARGUED THE CONTROLLING LAW DEMONSTRATING THAT SMITH WAS PROVIDING INEFFECTIVE COUNSEL, HAD CONDUCTED NO INVESTIGATION WHATSOEVER, AND THAT PTF & SMITH WERE IMBROILED IN IRRECOLLABLE CONFLICT.

144. AT THE CLOSE OF THE 11/3 HEARING HEALY AGAIN WILLFULLY ABUSED HIS DISCRETION AND DENIED PITF'S APPROPRIATE FARETTA REQUEST SPECIFICALLY STATING HIS REASON THAT ' IT WAS NOT IN THE PITF'S BEST INTERESTS.' NO OTHER PAMONIALE WAS PROVIDED.

145. AT THE END OF THE 11/3 HEARING Smith AGREED TO FILE A WTD DRAFTED BY FRYE PURSUANT TO PITF'S INSTRUCTIONS, I.E., DATE TO FILE.

* 146. PRIOR TO BECOMING AN ATTORNEY APPROX. TWO YEARS AGO, FRYE WAS EMPLOYED AS A COURT CLERK AT THE CALAVERAS SUPERIOR COURT FOR OVER 15 YEARS AND IS READILY FAMILIAR WITH THE PRACTICES & PROCEDURES OF THE COURT. MOREOVER, FRYE HAD BEEN A CLERK IN HEALY'S COURT SINCE HEALY JOINED THE CALAVERAS BENCH.

* 147. ON 11/8/23 @ 7:12 P.M. FRYE SENT SMITH AN EMAIL INFORMING SMITH THAT HE COULD PREPARE A DECLARATION CONCERNING THE COURT'S MAILBOX AT 891 MOUNTAIN RANCH RD. STATING "THE COURT HAS BROUGHT THIS UP A FEW TIMES." "THE COURT STILL AND HAS ALWAYS GOTTEL MAIL THERE."

* 148. THE ABOVE EMAIL ALSO STATES "I ALSO HAVE PERSONAL KNOWLEDGE THE COURT CLERKS, AS A MATTER OF ROUTINE, WOULD SIMPLY FORWARD ANYTHING THAT APPEARS TO BE A TRIAL DEMAND TO THE DA AND NOT PUT IT IN THE FILE."

- * * * 139. AT THE 11/3 HEARING HEALY WILLFULLY AND KNOWINGLY ABUSED HIS DISCRETION IN FAILING TO INQUIRE AT ALL INTO PTF'S COMPLAINTS. HEALY WILLFULLY FAILED TO PROBE AS TO ANY JUSTIFICATION(S) SMITH MAY HAVE TO JUSTIFY HIS FAILURE(S) TO COMMUNICATE, FAILURE TO INVESTIGATE, ETC.
- * * * 140. IMPORTANTIY, AT THE 11/3 HEARING SMITH AVERRED ON THE RECORD THAT "MR. MURPHY IS ATTEMPTING TO HAVE HIS CASE DISMISSED VIA PC 1389; AND SPECIFICALLY DECLARED "I DON'T ALLOW THAT TO HAPPEN." (SEALED 11/3 MARSDEN RECORD)
141. HEALY AGAIN BLATANTLY, WILLFULLY & KNOWINGLY ABUSED HIS DISCRETION WHEN REBUTTING THAT THE PTF FAILED TO DEMONSTRATE GOOD CAUSE TO REMOVE SMITH.
142. ON 11/3 THE PTF WAS ACUTELY AWARE THAT NEITHER HE NOR SMITH COULD BE ABLE TO FILE A MERITORIOUS MOTION TO DISMISS UNDER 1389 DUE TO SMITH BEING COUNSEL OF RECORD. MOREOVER, SMITH HAD FAILED ENTIRELY TO TAKE ANY ACTION IN PTF'S DEFENSE, THEIR RELATIONSHIP WAS TOXIC... AND, ACCORDINGLY, THE PTF FEIT COMPelled TO MOVE THE COURT TO REPRESENT HIMSELF.
- * 143. AT THE 11/3 HEARING THE PTF EXECUTED AN 'EYES WIDE OPEN' FARETTA WAIVER, ANSWERED ALL OF THE COURT'S INQUIRIES APPROPRIATELY, AND ASKED TO REPRESENT HIMSELF.

* 149. ON 11/9/23 @ 10:33 A.M. SMITH SENT FRYE AN EMAIL STATING " I DO APPRECIATE YOUR DECLARATION REGARDING THE MAILBOX AS I DO BELIEVE THE COURT WOULD GET NOTICE AT THAT ADDRESS. I AGREE WITH YOU THAT I DO BELIEVE THAT THE FACT THAT THE MAIL DID GET FORWARDED, I AGREE THAT THE MAIL DID GET FORWARDED, AND YOUR COMMENTS, AS WELL AS DECLARATION, SHOULD BE PART OF THE MOTION. I FEEL THAT WOULD SIGNIFICANTLY HELP HIS CASE." " I APPRECIATE YOUR MOTION! I DID WILL REVIEW IT AND GET BACK TO YOU."

** 150. ON 11/9/23 @ 7:14 P.M. FRYE EMAILLED SMITH A 'FINAL VERSION' OF THE MTD (AS AN ATTACHMENT) WITH INSTRUCTIONS TO SMITH PLEASE SUBMIT NO LATER THAN TUESDAY, PREFERABLY MONDAY 11/13." " I WILL SEND YOU A DECLARATION IN THE MORNING."

** 151. ON 11/9/23 @ 8:57 P.M. FRYE SENT SMITH AN EMAIL STATING "HERE IS MY DECLARATION CONCERNING THE DEMAND." WITH 'DECLARATIONATTACH-CFRYE.PDF' ATTACHED

**** 152. SMITH HAD PROOF READ, EDITED (WITH CHARLES), ENDORSED, AND FILED PITE'S MTD ON 11/13/23 AND INTENTIONALLY FAILED TO INCLUDE/ATTACH THE CRITICALLY IMPORTANT 'DECLARATION OF CHARLES FRYE IN SUPPORT OF DAVE MURPHY.'

** 153. SMITH INTENTIONALLY FAILED TO FILE THE DECLARATION TO SABOTAGE PITE'S MTD, AS PROMISED ON 11/3/23 "I WON'T ALLOW THAT TO HAPPEN."

154. THE COVER/FIRST PAGE OF PITF'S 11/13 MTD DISPLAYS SMITH'S SIGNATURE, AND PROCLAIMS IMMEDIATELY ABOVE "THIS MOTION IS MADE BASED ON THE ATTACHED, POINTS AND AUTHORITIES, DECLARATION OF CHARLES FRYE, ETC."

* 155. PITF SPEAKS TO SMITH BY PHONE ON 11/14/23. SMITH INFORMS PITF THAT 'HE' FILED THE MTD.

156. THE PITF WAS UNAWARE THAT THE DECLARATION WAS NOT FILED WITH THE MTD ON 11/13.

157. 28TH CRT: 11/17/23 - TRC, COLT'D TO 11/22 TO ARGUE MTD.

158. IAD/1389 TIME TOLLED UPON FILING THE MTD ON 11/13.

159. 29TH CRT: 11/22/23 - HEALY VACATES 11/29/23 TRIAL DATE. CLAIMS MORE TIME IS NEEDED FOR THE COURT TO REVIEW AND CONSIDER THE BRIEFS. COURT NOTES THAT IT HASN'T RECEIVED PITF'S/FRYE'S DECLARATION RE: MAIL ROOM.

160. IMPORTANLTY, BETWEEN THE TWO CLOUNS REPRESENTING HIM, THE PITF WAS NEVER PROVIDED WITH A COPY OF THE MAIL ROOM DECLARATION UNTIL DATE FEB, 2024. I.E., THE PITF WAS NOT AWARE EXACTLY HOW POWERFUL, EFFECTIVE, DETAILED, AND SIGNIFICANT THE 5 Pg DOCUMENT (3pg's OF PHOTOGRAPHS) WAS UNTIL APPROX. 2/20/24.

- * 161. 30TH CRT: 12/1/23 - HEALY RULES 1389 ART. IV
DOES NOT APPLY; COURT NEVER RECEIVED 1389 ART III
CERTIFIED MAIL NOTICE (ON 4/24/23 OR AT ANY TIME);
STACIE LUK NOT COURT EMPLOYEE OR AGENT; ART III
NOTICE SENT TO 'BAD' ADDRESS; CREATES IMPLICIT EXCEPTION
TO ART III AND STATES COURT RECEIVED CONSTRUCTIVE NOTICE
ON 6/7/23 (WHEN HEALY & DA ENDORSED IAD/1389 FORM
VII; ONLY ART III COUNTS; 180 NOTICE BEGINS ON
6/7/23 (= 12/4/23)).
- * 162. HEALY'S IDIOTIC RULING IS INCOMPETENT OR
WILFUL MAIFIANCE AND IS ENTIRELY UNSUPPORTED
IN ANY PERMISSIBLE RANGE OF AUTHORITIES.
THERE IS/CAN BE NO IMPLICIT EXCEPTION TO
THE CERTIFIED MAIL NOTICE REQUIREMENT PRESCRIBED
IN THE UNAMBIGUOUS LANGUAGE OF ART III(b) AS A
CLEAR MATTER OF LAW.
- * 163. ON 12/1/23 HEALY ALSO RULED THAT THE ENTIRETY
OF THE TIME PTF. WAS WITHOUT CAUSE TOLLED
THE IAD/1389 TIME. I.E., HEALY SPECIFICALLY RULED
THAT, AS OF 12/1/23, A TOTAL OF 85 DAYS HAD
TOLLED.
- * 164. 'PEOPLES RESOLISE TO DEF. MTD' FILED BY
D.D.A. DANA PFEIL IS REPETE WILFUL MISLEDGESI-
TATIONALIST LIES DESIGNED TO DEPRIVE PTF OF HIS
CIVIL RIGHTS.
- * 165. PFEILS 11/22/23 RESPONSE CLAIMS THAT ON 8/4/23
A MARSDEL HEARLY OCCURRED AND WAS GRANTED

- ** 165. (CONT'D) REMOVING THE PD (FLEMING) AS COUNSEL. THIS IS A LIE. FLEMING MOVED THE COURT TO WITHDRAW FOR CONFLICT.
- ** 166. PFEIL DELIBERATELY LIES AGAIN STATING THAT THE CW WAS APPOINTED P.D. APRIL ASBEL ON 8/1/23. THE CW WAS APPOINTED P.D. LEIGH FLEMING ON 8/1/23.
- ** 167. THE PITF'S CW IS ACCORDINGLY TRIED ON MULTIPLE FELONY CHARGES. THE CW HAS HAD THREE(3) APPOINTED ATTORNEYS SUBSEQUENT TO HER ARREST IN JUNE, 2023. ALL THREE OF CW'S ATTY'S WORKED FOR THE PITF. FIRST/PRIOR TO APPOINTMENT TO CW.
168. PITF'S FIRST P.D. (FLEMING) WITHDREW FROM PITF'S CASE ON 8/4/23 SUBSEQUENT TO PITF DETAILING THE ENTIRETY OF HIS ACTIONS/ DEFENSE AND THEN ACCEPTED APPOINTMENT TO CW ON 8/15/23 ... ONLY WITHDRAWING FOR CONFLICT SUBSEQUENT TO PITF'S ATTY/FRIEND INFORMING HER THAT SHE'LL GET INTO SERIOUS TROUBLE.
169. CALAVERAS COUNTY KNOWINGLY & WILLFULLY PROMULGATES AN UNLAWFUL PRACTICE OF ALLOWING CONFLICTED ATTY'S TO CONTINUE IMPROPER REPRESENTATION.

170. IN PFEILS 11/22 'PEOPLES RESPONSE TO DEF.' S
MTD, DECLARATION SHE WILLFULLY LIES AND CLAIMS
THAT THE STATES CW WAS REPRESENTED BY
P.D. APRIL ASBEI AUGUST- SEPTEMBER, 2023. THAT IS
AN INTENTIONAL EFFORT (IE) TO HIDE THE FACT THAT
PITF'S FORMER P.D. (FLEMING) WAS APPOINTED TO
CW KNOWING THERE WAS A STARK CONFLICT.

* 171. 31ST CRT: 12/4/23- HEAVY SETS NEW TRIAL
DATE FOR 2/13/24. SMITH OBJECTS ON THE RECORD
TO DATE FOR IAD/1389 PURPOSES.

172. IN THE INTERIM PERIOD BETWEEN 12/4/23- 12/22/23
SMITH CONDUCTED NO INVESTIGATION WHATSOEVER, REQUESTED
NO SUBPOENAS, NOR FUNDS FOR AN EXPERT OR INVESTIGATOR.

173. PITF PREPARED A 28 PAGE COMPREHENSIVE WRITTEN
MARSDEN MOTION PLEADING WITH SPECIFICITY THAT SMITH
HAD CONTINUALLY LIED TO THE COURT, TO THE PITF, HAD
DONE NO WORK ON PITF'S CASE AND WAS MISREPRESENTING
TO THE COURT THAT HE WAS (AND AT ALL TIMES HAD BEEN)
PREPARED FOR TRIAL.

174. 32ND CRT: 12/22/23- TRC, PITF, IN AN
ABUNDANCE OF CAUTION / NOT WANTING TO TELL OR
DISTURB IAD/1389 TIME, OPT'S NOT TO FILE MARSDEN.

175. ON OR ABOUT 12/27/23 SMITH VISITS PITF AT
JAIL. DURING A CONGENIAL MEETING SMITH SPECIFICALLY
ASSURES PITF THAT: 1) HE WILL ATTEMPT TO SUBPOENA
CW'S MED/PSYCH RECORDS; 2) CW'S CELL PHONE RECORDS;
3) PITF'S CELL PHONE & RCC/BALLO RECORDS, ETC

173. (CONT'D) Smith assures PITE that he will REQUEST ALL OF THE INFORMATION THAT PITE HAS BEEN REQUESTING.

174. ON/OR ABOUT 12/27/23 Smith assures PITE, THAT HE WILL MAKE A DISCOVERY REQUEST TO THE DA FOR ALL 1389 MATERIAL.

175. ON/OR ABOUT 12/27/23 Smith assures PITE, THAT HE WILL FILE A MOTION WITH THE COURT TO UNSEAL THE MARSDEN MOTIONS/RECORDS.

176. AS OF AT LEAST 2/8/24 Smith has failed to complete ANY OF THE FOREGOING ACKNOWLEDGED TASKS.

177. IN A 11/29-11/30 (2023) Email To Smith, PITE, STATES "I AM RESPECTFULLY REQUESTING YOUR PROMPT COMPLIANCE/REPLY IN WRITING TO THE FOLLOWING LEASURABLE REQUESTS FOR INFORMATION." ESSENTIALLY THIS WRITTEN COMMUNICATION IS INQUIRING WHETHER THERE HAVE BEEN NO REQUESTS FOR SUBPOENAS; INVESTIGATOR; ETC. SMITH HAS NEVER REPLIED AS REQUESTED.

178. IN A 11/8/23 (2:36 PM) Email From FRYE TO Smith, FRYE REQUESTS SMITH TO OBTAIN HEARING TRANSCRIPTS FOR 6/26, 6/30, 7/14, 8/24, 8/28, 9/12, AND 9/28.

179. IN A 11/9/23 (10:33 AM) Reply Email From Smith (CBSCLAw2@yahco.com) TO FRYE (charlesfrye@gmail.com) SMITH STATES 'I WILL PUT IN A REQUEST TO THE COURT REPORTER FOR THOSE TRANSCRIPTS.

180. SMITH HAS NEVER REQUESTED THOSE TRANSCRIPTS.

181. IN AN EMAIL TO SMITH ON 1/14/24 PITF AGAIN REQUESTS SMITH TO 2/27/24 COMMITMENT TO OBTAIN 188⁹ DISCOVERY FROM THE DA. TO DATE SMITH HAS NEVER REQUESTED THE MATERIAL. PITF ALSO REITERATES HIS INSTRUCTION FOR SMITH TO FILE A MOTION TO CANCEL DISCOVERY, AND UNSEAL THE MARSDEN RECORDS.

182. IN AN EMAIL TO SMITH ON 1/23/24 PITF STATES "YOUR CONTINUED FAILURES/REFUSAL TO COMMUNICATE WITH ME IS UNACCEPTABLE. IT IS URGENT THAT WE SPEAK ASAP. I NEED TO DETERMINE WHAT ACTION(S), IF ANY, YOU'VE TAKEN IN INVESTIGATING/PROSECUTING MY DEFENSE. SMITH FAILED TO REPLY.

** 183. ON OR ABOUT 2/3/24 (IN ADVANCE OF THE SCHEDULED 2/8 TRIAL CONFIRMATION HEARING) SMITH & PITF HAVE A 'DOCUMENTED' PHONE CALL WHEREIN SMITH CANDIDLY & PROFESSLY APOLOGIZES TO PITF STATING "I'M SORRY, I HAVEN'T HAD THE TIME TO WORK ON YOUR CASE. I'VE BEEN TOO BUSY!" SMITH GOES ON TO STATE THAT WE NEED MORE TIME. I WILL SUBPOENA ALL OF THE RECORDS YOU WANTED, WE'LL ALSO GET AN EXPERT. IMPORTANTLY, SMITH INFORMS PITF THAT THE SHERIFFS HAVE LOCATED AND INTERVIEWED A CRUCIAL DEFENSE WITNESS AND HIS WIFE AND THEY CORROBORATE EVERYTHING THE PITF HAS BEEN SAYING AND DEBUNK THE ACCOUNT & CREDIBILITY OF THE CO.

184. ON OR ABOUT 2/3 ON THIS SAME CALL SMITH INFORMS PITF THAT HE NEEDS MORE TIME TO PREPARE, INFORMS PITF THAT HE (SMITH) WILL REQUEST, ALSO DURING, A 23 MONTH CONTINUANCE, AND ASSURES PITF THAT THERE WILL NOT BE A TRIAL BEGINNING ON 2/13/24 AS SCHEDULED.

185. ON OR ABOUT 2/3 SMITH CALLS PITF'S SISTER (LYNNIE WILKINS) AND ALSO INFORMS HER THAT THERE WOULD NOT BE A TRIAL ON 2/13. DURING THIS CALL SMITH ALSO COMPLIMENTS THE PITF'S LEGAL ACUMEN & INTELLECT.

186. IN AN EMAIL TO HIS SISTER DATED 2/4, PITF INFORMS HIS SISTER THAT HE SPOKE WITH SMITH AND SMITH CANDIDLY ADMITTED HE'S DONE NOTHING TO PREPARE FOR HIS CASE.

187. IN AN EMAIL TO SMITH DATED 2/4/24 PITF STATES "SUBSEQUENT TO OUR PHONE CONVERSATION YESTERDAY (2/3), WHEREIN YOU UNQUOTE UNQUOTE REITERATED/CONFIRMED THE INFORMATION BELOW AS FACTS... I INSIST/DEMAND THAT YOU WITHDRAW YOUR APPEARANCE FOR BIATALT MISCONDUCT, CLIENT ABANDONMENT, AND MULTIPLE CONFLICTS OF INTERESTS.

- 1) THERE'S BEEN NO PROGRESS WHATSOEVER IN PREPARATION.
- 2) ENTERED INTO A PROFESSIONAL PARTNERSHIP WITH NATHAN NUTTING
- 3) IVE FILED A 42 USC 1983 CMPLT.
- 4) PITF WITHDRAWS HIS COSENT (EMAIL) DISALLOWING SMITH TO DISCUSS HIS CASE WITH ANYONE.

188. IN AN EMAIL TO SMITH DATED 2/5 PITF REQUESTS SMITH TO 1) ADHERE TO PITF'S & FRYE'S EARLIER REQUESTS TO OBTAIN COURT TRANSCRIPTS & MOVE THE COURT TO UNSEAL MASTERS RECORDS; 2) PROVIDE PITF WITH A COPY OF ALL DISCOVERY, COPY OF ALL OF PITF'S ELECTRONIC CORRESPONDENCE, PROVIDE COPY OF FRYE'S 'MAIL ROOM DECLARATION'; 3) INSTRUCTS SMITH TO INFORM THE COURT ON 2/8 THAT THERE HAVE BEEN NO SUBPOENAS, REQUESTS FOR EXPERT, INVESTIGATOR, WITNESS INTERVIEWS, ETC, THAT SMITH HAS RECENTLY ACCEPTED OVER 400 NEW CASES AS PUBLIC DEFENDER IN TUOLUMNE CO; AND 4) THAT PITF & SMITH HAVE IRRECALCULABLE CONFLICTS.

189. IN AN EMAIL TO SMITH DATED 2/6 PITF INSTRUCTS SMITH TO IMMEDIATELY INFORM THE COURT ON 2/8 THAT PITF HAS WITHDRAWN HIS CONSULT/ASSERTED PRIVILEGE NOT TO SPEAK TO THE COURT OR DA OUTSIDE OF PITF'S PRESENCE.

190. SMITH DOES NOT RESPOND OR COMMUNICATE WITH PITF PRIOR TO 2/8 HEARING.

33rd CRT-
2/8/24
191. AT THE OUTSET OF PITF'S 2/8/24 TRIAL CONFIRMATION HEARING, SMITH PASSES PITF A HAND WRITTEN NOTE ADVISING "YOU MAY WANT TO 170.6 THIS JUDGE, HE DENIED OUR EXPERT REQUESTS." I.E. SMITH WAS ADVISING HIS CLIENT TO ACT/PEREMPTORY CHALLENGE JUDGE SUITS.

192. PITF ASSERTS A VERBAL 170.6 MOTION, WHICH IS ULTIMATELY DENIED AS UNTIMELY.

193. ON 2/18/24 PITF ALSO STRUGGLED TO FILE A FORMAL WRITTEN COMPREHENSIVE MARSDEN WITH NEWLY ASSIGNED JUDGE SUITS. AT FIRST SUITS CLAIMS THAT HE DOES NOT HAVE TO, NOR DOES HE WANT TO, ACCEPT PITF'S WRITTEN MOTION. PITF CITES CONTROLLING DICTUM (AW AND SUITS THEM) STATES THE PITF CANNOT FILE WRITTEN MARSDEN WITHOUT WAIVING HIS 5TH AMEND. RIGHT(S) AGAINST SELF-INCRIMINATION.

194. SUITS IS EITHER INCOMPETENT IN CURRENT PREVAILING DIRECTLY OR FAILS CONTROLLING LAW, OR WILLFULLY MISREPRESENTED SAME IN AN EFFORT TO PREVENT PITF FROM ADDRESSING HIS MERITORIOUS MARSDEN ISSUES. SEE, PEOPLE V. KNIGHT, 239 CAL APP 4TH 1 (2015) (COURT REVERSED LOWER COURT FOR INFORMING THE DEF. THAT HE MUST WAIVE 5TH TO FILE MARSDEN). SUITS FORCES PITF TO WAIVE HIS 5TH (AMEND.) RIGHT OUT THE RECORD BEFORE THE COURT WILL ACCEPT / FILE PITF'S MARSDEN.

PITF. HAS ASSERTED / MAINTAINED HIS ACTUAL INNOCENCE FROM THE OUTSET OF HIS CASE, AND AGREES TO WAIVE HIS 5TH RIGHT OUT THE RECORD TO BE ABLE TO FILE THE MOTION. PITF FILES / COURT ACCEPTS MOTION.

196. PITF'S MARSDEN IS A COMPREHENSIVE, DETAILED, PIGNANT ACCOUNT OF SMITHS INEFFECTIVENESS, FAILURE TO INVESTIGATE, COMMUNICATE AND THE COURT'S PROCLIVITY TO ABUSE ITS DISCRETION IN FAILING TO ADEQUATELY INQUIRE.

196. (CONT'D) INTO PITF'S SPECIFIC COMPLAINTS
PLIED WITH SPECIFICITY.

197. SUITS OPINES THAT 1) JUST BECAUSE THE CW MAY
BE SCHIZOPHRENIC THAT DOESN'T PRECLUDE HER FROM BEING
A VICTIM; 2) HE WOULD DENY ACCESS TO HER MEDICAL
RECORDS ANYWAY; 3) NO EXPERTS ARE NEEDED; 4) IT'S
BASICALLY A 'HE SAID / SHE SAID' CASE - NO WITNESSES
NEEDED, ETC. SUITS DENIES MARSDEN AND
CONFIRMS TRIAL BEGINS ON 2/13/24.

* * * # 198, 34TH CLR: 2/13/24 - PITF DRESSED IN REGULAR
CLOTHES FOR TRIAL. PITF NOT PERMITTED TO ENTER
COURTROOM, INSTEAD PRESENTED 'BEHIND THE GLASS.'
SMITH AVERS DOUBT AS TO ATF'S COMPETENCE/ABILITY
TO PROCEED TO TRIAL!

199. IMMEDIATELY SUBSEQUENT TO THE FALSE START
TRIAL/HEARING, SMITH MEETS WITH PITF IN ATTY-CLIENT
(BETWEEN THE GLASS) ROOM AND INFORMS PITF THAT
'THE WHOLE JAIL KNOWS!' PITF RETORTS, 'KNOW'S WHAT?'
SMITH INFORMS PITF THAT ALLEGEDLY, PITF HAS BRAGGED
ABOUT PUNCHING SMITH IN THE FACE, THAT THERE'S A
RICE REPORT, AND THAT HE'LL PROVIDE THE REPORT TO
D PITF. PITF IMMEDIATELY AVERS THAT THIS ALLEGATION
IS UNTRUE. PITF HAS NEVER TOLD ANYONE EVER
THAT HE WAS PLANNING ON, OR WOULD ASSAULT
SMITH.

200. Importantly, the ATF is reasonably well liked & respected by jail staff. Immediately subsequent to this hearing the ATF inquired to numerous officers if they knew anything about this alleged threat. No one had heard, or knew, anything about it.

201. The ATF is not under any type of heightened security measures at the jail whatsoever.

201. Smith had declared doubt as to ATF's competence on 2/18 due to the fact that

Smith was not prepared for trial

202. Smith declared doubt as to ATF's competence on 2/18 due to the fact that ATF had announced to Smith in early Feb that he would not waive 1389 time, and Smith could not go back on his unlawful backroom deal with Healy to not allow the ATF to obtain a dismissal pursuant to 1389 VC.

203. During phone calls to ATF sister on or about 2/14/24 & 2/16/24, Smith specifically complimented ATF's legal acumen.

203. In Smith's/ATF's 11/13/23 MTD, Smith states "HERE THE DEFENDANT REPEATEDLY DISPLAYED REMARKABLE LEGAL ACUMEN;" "THE DEF. CLEARLY HAS INTELLIGENCE FAR ABOVE THAT OF THE COMMON MAN AND AS SUCH IS IN A POSITION TO REPRESENT HIMSELF AT TRIAL." "INDEED, ARGUABLY, AT TIMES HE DISPLAYED A HIGHER UNDERSTANDING OF PC1389 THAN THE STAFF."

204. THE PTF PURCHASED THE '2023 CALIFORNIA CRIMINAL RULES OF COURT' IN APRIL, 2023, AND IS FAMILIAR WITH SAME.

205. IN AN EMAIL TO SMITH DATED 2/14/24, PTF SPECIFICALLY REQUESTED THAT SMITH INFORM HIM 'SPECIFICALLY' IF THE COURT IS PROCEEDING PURSUANT TO 4.130(d)(1)(A) OR (B) WITH REGARD TO THE COMPETENCY PROCEEDING SO HE CAN MAKE AN INFORMED DECISION. SMITH FAILED TO RESPOND.

206. ON 2/26/24 THE PTF MAILED A COMPREHENSIVE MARSDEN MOTION AND MEMORANDUM OF LAW TO SMITH TO FILE ON 3/15. SMITH FAILED / REFUSED TO FILE MOTION. PTF ALSO INFORMS SMITH THAT HE AND HIS PARTNER (NUTTING) ARE BEING NAMED AS DEFENDANTS IN A THE INSTANT HYBRID 1983 / STATE MALPRACTICE CMPLT.

207. FRYE FILED PTF'S 'PETITION FOR A WRIT OF PROHIBITION / MANDATE' ON 1/26/24 IN THE COURT OF APPEALS / 3rd DISTRICT AT NO. C100339. FRYE'S INITIAL ATTEMPT CLAIMED THAT THE PETITION WAS ALSO FILED AS A HABEAS CORPUS. THE APPELLATE CLERK NOTED THAT THE PETITION WAS FILED WITH DEFICIENCIES: 1) LACK OF BOOKMARKS; 2) LACK OF PAGINATION; 3) LACK OF COVER PAGES, ETC. FRYE WAS FORCED TO SEND A LETTER TO THE COURT CLARIFYING THAT THE PETITION SHOULD BE FILED AS MANDATE OR PROHIBITION.

208. FRYE'S 1/26 PETITION CONTAINED A MYriad OF SIGNIFICANT LEGALLY MEANINGFUL ERRORS.

209. ALSO PETITION (C100339) PAGE 2 CLAIMS THAT RESPONDENT IS SUPERIOR COURT OF SAN JOAQUIN.
210. PAGE 10 MISTAKES ART III OR ART IV REQUIRE DISMISSAL 'WITHOUT PREJUDICE.' THE ONLY REMEDY FOR DISMISSAL OF A STATE CHARGE IS DISMISSAL WITH PREJUDICE.
211. PAGE 10 MISTAKES ART III DATE OF CERT. MAIL NOTICE AS 4/25/23 (THE COLLECT DATE IS 4/24/23). THE DATE OF LODGED DETAINER WITH CT IS MISTAKEN AS 4/7/23 (THE COLLECT DATE IS 4/5/23).
212. PAGE 12 UNDER 'GROUNDS FOR IMMEDIATE STAY AND IMMEDIATE RELIEF' STATES " INDICTMENT THAT MUST BE DISMISSED 'WITHOUT PREJUDICE' "
213. PAGE 21, UNDER 'STATUTORY CONSTRUCTION' FRYE CLAIMS IT IS THEREFORE NECESSARY TO REVIEW THE PURPOSES UNDERLYING THE INTERSTATE AGREEMENT ON ARRESTERS AND HOW THEY RELATE TO DETAINERS BASED ON 'CHARGES OF PROBATION VIOLATION.' (THE IAD MAY NOT BE USED TO ADDRESS DETAINERS BASED ON PROBATION OR PAROLE VIOLATIONS IN ANY CIRCUMSTANCE FOR ANY REASON. THIS IS WELL SETLED BRIGHTLINE LAW)
214. THESE SIGNIFICANT UNFORCED STARK ERRORS CONTINUE THROUGHOUT THE PETITION AND ARE A DIRECT RESULT OF INCOMPETENCE, AND CONSTITUTE LEGAL MALPRACTICE.

215. FRYE'S PETITION WAS INCOMPETENT / LEGAL
MAIL PRACTICE ON ITS FACE

216. FRYE FAILED TO ENSURE THAT HIS CRITICALLY
IMPORTANT 'MAIL ROOM DECLARATION' WAS ACTUALLY
FILED ON ~~11/13/23~~ 11/13/23.

217. FRYE FAILED TO FILE THE MAIL ROOM DECLARATION
WITH THE COURT ON 11/22 AS A RESULT OF INCOMPETENCE.

218. FRYE FAILED TO FILE THE MAIL ROOM DECLARATION
AT THE 12/1/23 MTD HEARING AS A RESULT OF
INCOMPETENCE AND/OR A WILLFUL DESIRE TO
SABOTAGE PTIF'S 1389 MTD/CLAIM.

219. PTIF CONTINUALLY INQUIRED INTO THE LACK OF
DECLARATION AND LACK OF ANY EVIDENCE PRESENTED
SUPPORTING PTIF'S CONTENTION AND HEADINGS THAT
THE COURT RECEIVED THE IAO PACKAGE SIGNED FOR
BY STACIE LINT ON 4/24/23. FRYE WAS INCOMPETENT
BY DEFINITION IN FAILING TO ADDRESS THE MISSING
MAIL ROOM DECLARATION.

220. FRYE & SMITH HAD COURT APPEARANCES ON 11/13, 11/22,
AND 12/1 TO ADDRESS AND REMEDY THE MISSING CRUCIAL
MAIL ROOM DECLARATION.

221. PTIF WAS FORCED TO SEEK, AND RETAIN, SEPARATE
COUNSEL TO PROSECUTE HIS IAO/1389 ISSUE(S) DIRECTLY
DUE TO SMITH'S INEFFECTIVENESS, LACK OF DILIGENCE,
LACK OF ZEALOUS ADVOCACY.

222. SMITH WILLFULLY, PURPOSEFULLY, DELIBERATELY, AND KNOWINGLY SABOTAGED PITE'S IAD/1389 MTD TO HIGHLIGHT HIS DANGEROUS COMMITMENT TO HEALY ON 11/3 "I WON'T ALLOW THAT TO HAPPEN."

223. PRIOR TO ARRIVING IN CALIFORNIA ON 10/23/23, PITE HAS FORWARDED MULTIPLE PRO SE MOTIONS TO THE COURT WITH CONCURRENT SERVICE (WITH PROOF OF SERVICE) TO THE DA. THESE MOTIONS ARE ALLEGEDLY ABSENT FROM THE COURT'S/PITE'S FILE, AND THE DA HAS FAILED TO PRODUCE, OR ACKNOWLEDGE RECEIPT, THESE DOCUMENTS.

224. ON 3/17/23 PITE MAILED/ATTEMPTED TO FILE A PROPERLY FORMATTED PRO SE MOTION TITLED 'DEFENDANT'S ENTRY OF APPEARANCE PRO SE,' WITH CONCURRENT SERVICE TO THE DA. THIS DOCUMENT APPEARS NEVER TO HAVE BEEN FILED BY THE COURT/ APPEARS TO BE ABSENT FROM THE COURT'S/PITE'S CASE FILE.

225. THE DA HAS REFUSED TO SUPPLY OR ACKNOWLEDGE RECEIPT OF THE DOCUMENT AT 224.

226. THE DOCUMENT AT 224 SPECIFICALLY PLEASES THAT HE WILL BE DEMANDING TO BE RETURNED TO CA VIA AN IAD DEMAND (3/17/23 MOTION AT 4.) THE COURT AND THE DA DENY RECEIPT OF THIS DOCUMENT IN A KNOWING & WILLFUL EFFORT TO SUBJUGATE PITE'S CIVIL RIGHTS.

227. PITF MAILED/ATTEMPTED TO FILE 'DEFENDANTS PLAECIAE TO THE COURT TO COMPEL THE STATE TO PROVIDE ALL DISCOVERY TO THE SELF-REPRESENTED DEFENDANT.' ON 3/17/23. THE COURT AND THE DA DENY RECEIPT OR KNOWLEDGE OF SAME.

* 228. ON 4/10/23 PITF MAILED A PROFESSIONALLY FORMATTED 'BUSINESS' LETTER REFERENCING 'STATE V. DOUGLAS MURPHY, NO. 22F0546' TO D.D.A. PETER SMITH. THE DA'S OFFICE HAS FAILED TO PRODUCE OR ACKNOWLEDGE THIS DOCUMENT. THIS LETTER STATES THAT PITF WILL BE INVOKING HIS SPEEDY TRIAL RIGHTS.

229. PITF'S 3/17/23 MOTIONS INCLUDED A SEPARATE COVER LETTER TO THE CLERK, AS WELL AS A COPY OF A LETTER TO THE DA'S OFFICE. THESE DOCUMENTS APPEAR TO HAVE DISAPPEARED.

230. THE FOREGOING PLEADINGS AT 225-230 INDICATE DEFENDANTS' WILLFUL ATTEMPTS TO DENY PITF ACCESS TO THE COURTS.

* 231. THE DEFENDANTS KNOWINGLY PROMULGATE AN UNLAWFUL PRACTICE TO DENY ACCESS TO THE COURTS.

232. ON 8/4/23 PITF ATTEMPTED TO FILE A WRITTEN MARSHAL WITH HEALY. ON THE RECORD HEALY TRIED TO BALK ABOUT ACCEPTING A WRITTEN MOTION. PITF INSISTED AND HEALY STATED THAT THE COURT WOULD FILE PITF'S PRO SE MOTION, AND INSTRUCTED THE PITF TO PASS THE MOTION ON TO THE CLERK FOR FILING. HEALY ALSO PROMISED PITF TO FILE A STAMPED COPY.

232 (CONT'D) PITF PASSES UP THE MOTION. THE MOTION DISAPPEARED NEVER TO BE SEEN AGAIN. THIS IS REFLECTED ON THE RECORD.

233. ON 8/14/23, ON THE RECORD, PITF INDICATES TO THE COURT THAT HE WISHES TO FILE 'DEFENDANTS PRO SE MOTION TO INCLUDE TWO(2) PREVIOUS 'MANSDEN' MOTIONS INTO THE CASE RECORD THAT HAD BEEN IMPROPERLY REFUSED BY THE COURT/CLERK. HEAN CLEARLY AGREES TO BOTH FILE AND RETURN A FILE STAMPED COPY TO PITF. PITF PASSES UP THE PROPERLY FORMATTED PRO SE 'MANSDEN' RELATED MOTION. THE COURT FAILS TO FILE THE MOTION.

234. PITF'S 8/14/23 MOTION CLEARLY PLEADS THAT THE PREVIOUS MANSDEN MOTIONS THAT WERE NOT FILED A CRITICAL FOR THE RECORD/ APPELLATE REVIEW. THIS WAS AN INTENTIONAL DENIED ACCESS TO THE COURTS.

235. ON 2/13/24 THE COURT OF APPEALS ISSUED AN ORDER IN C100339 DIRECTING THE 'PETITIONER' TO FILE THE 'PEOPLE'S RESPONSE TO DEF'S MTD,' AND A SUPPLEMENTAL STATUS UPDATE LETTER BRIEF NO LATER THAN 2/20/24.

236. DUE TO FRYE'S READILY APPARENT INCOMPETENT ARGUMENT IN PITF'S 1/26/24 PETITION, THE COURT'S FAILURE TO ISSUE THE REQUESTED EMERGENCY STAY, AND THE COURT'S 2/13 ORDER, THE ATF FIRES FRYE AND SCRAMBLES TO COMPLY WITH THE COURT'S ORDER(S).

- RETURNS
- ** 237. ON 2/19/24 FRYE OVERLIGHTS PITF'S C100339 FILE TO HIM. PITF SEES FRYE'S 11/9/23 'MAIL ROOM DECLARATION' FOR THE FIRST TIME!
238. PITF HAS REPEATEDLY REQUESTED FRYE TO PROVIDE HIM WITH A COPY OF THE MAIL ROOM DECLARATION SINCE IT WAS CREATED 11/9/23.
239. FRYE'S MAIL ROOM DECLARATION IS AN EXTREMELY POWERFUL TWO PAGE WRITTEN DOCUMENT w/ 3 PAGES OF COLOR PHOTOGRAPHS CLEARLY ARGUING/DEMONSTRATING THAT THE SUPERIOR COURT MAINTAINED AND CONSISTENTLY USED, A DESIGNATED COURT MAIL BOX AT 891 MAINTAINING RECORD.
240. HAD THE PITF BEEN AWARE JUST HOW ACUTELY IMPACTFUL THIS DOCUMENT WAS/IS HE WOULD HAVE INSISTED THAT FRYE AND SMITH MADE SURE IT WAS PROPERLY FILED WITH THE COURT ON 11/13, 11/22 AND 12/1!
241. FRYE PLEADS IN PITF'S 10/6/24 PETITION THAT THIS MAIL ROOM DECLARATION WAS PROVIDED TO COUNSEL OF RECORD TO FILE WITH THE MTD AND THAT COUNSEL FAILED TO DO SO.
242. THE EMAILS BETWEEN FRYE & SMITH REFERENCED HEREIN WERE PROVIDED TO PITF FOR THE FIRST TIME WHEN FRYE RETURNED HIS FILE ON OR ABOUT 2/19/24. THE PITF WAS COMPLETELY UNAWARE OF THESE COMMUNICATIONS PRIOR TO RECEIVING THEM IN LATE FEB.

* * * 243. IN AN EMAIL FROM SMITH TO PITF DATED 3/8/24
SMITH STATES "THE ONLY REASON TO HAVE TO FILE A MOTION^(MTO)
IS IF YOUR MOTION IN THE COURT OF APPEALS WAS DENIED.
HAS IT BEEN?"

* * * 244. SMITH'S 3/8 EMAIL ALSO STATES "BEFORE A SECOND
MOTION(MTO) IS FILED, THERE NEEDS TO BE NEW GROUNDS.
HAS THE COURT DENIED YOUR PETITION? IF SO WAS IT
BASED UPON THE FACT THAT THERE WAS NO DECLARATION
REGARDING THE MAIL ROOM INFORMATION LIKE I TOLD
YOU WAS NEEDED?"

* * * "IF SO, SINCE YOU HAVE NOW FIRED MR. FRYE
AND ARE NOW SUING HIM, WHO IS GOING TO
COOPERATE WITH YOU TO GET YOU THIS DECLARATION
ON THIS INFORMATION? HOW DO YOU PROPOSE ON
GETTING THIS INFORMATION?"

245. SMITH IS INSINUATING THAT HE DOES NOT POSSESS
THE DECLARATION EMAILED TO HIM BY FRYE ON 11/9/23.
SMITH WAS UNAWARE THAT PITF WAS IN POSSESSION
OF FRYE'S EMAILS TO HIM IN NOVEMBER, 2023.

246. ON 2/26/24 PITF MAILED SMITH A COMPREHENSIVE
MARSDEN MOTION REQUESTING THAT HE ENSURE THAT IT
GETS FILED WITH THE COURT. SMITH INTENTIONALLY
REFUSED / FAILED TO FILE PITF'S MOTION.

* 247. ON 2/26/24 PITF MAILED / ATTEMPTED TO FILE HIS
MARSDELL MOTION TO THE SUPERIOR COURT CLERK. THE
CLERK REFUSED TO FILE PITF'S MOTION AND RETURNED
it TO HIM.

(3)

- * 248. PTF SENT SMITH AN EMAIL DATED 3/7/24 STATING THAT THE CLERK HAD REFUSED TO FILE/REFURNED HIS MARSDEN MOTION, AND SPECIFICALLY INSTRUCTED SMITH TO FILE IT. SMITH INTENTIONALLY REFUSED/FAILED TO FILE PTF'S MOTION.
- * 249. PTF HAS REPEATEDLY PROVIDED SMITH WITH DICTUM/CONTROLLING 1309 LAW DEMONSTRATING THAT A MTD WOULD BE MERITORIOUS, AND THAT ALL ADDITIONAL TIME FROM 12/1/23-3/13/24 HAS EXPIRED UNFILED WHICH ALSO QUALIFIES AS A MERITORIOUS ISSUE/MTD. SMITH FAIRLY REFUSES TO FILE A NEW MTD.
- * 250. 35TH CRT: 3/15/24- PTF 'BEHIND THE GLASS.' SUPPOSED 'TRIAL SCHEDULING CONFERENCE' SMITH HAD NEVER RESPONDED TO PTF'S MULTIPLE REQUESTS FOR LEGAL ADVICE ON HIS RIGHTS/ HOW TO PROCEED WITH PURPORTED COMPETENCY PROCEEDING. TSC NOT HEID. HEALY INITIALLY ATTEMPTS TO DISSUADE PTF FROM FILING WRITTEN MARSDEN MOTION.
251. - 3/15/24- PTF FILES COMPREHENSIVE MARSDEN MOTION WITH EXHIBITS A-I. PTF FILES ORIGINAL (UNFILED) 2/13 MARSDEN AND 'DEFENDANT'S SUPPLEMENTAL (2/13/24- 3/15/24) MARSDEN MOTION AND DECLARATION IN SUPPORT w/EXHIBITS' EXHIBIT A) FRYE & SMITH'S 11/9/24 EMAILS REFERENCED HEREIN; B) FRYE'S PLEADING IN PLACOLAY PETITION STATING THAT SMITH DID NOT ATTACH MAIL ROOM DECLARATION TO MTD; C) FRYE'S 1/26 PLEADING STATING HE HAS TWICE REQUESTED SMITH TO OBTAIN RECORDS WITHOUT SUCCESS;

251. (CONT'D) D) PITF'S BAR COMPLAINT AGAINST SMITH, NO 23-0-25375 DATED 11/6/23; E) FRYE'S 'MAIL ROOM' DECLARATION; F) SMITH'S 2/8 HAND WRITTEN NOTE TO PITF TELLING HIM TO '170.6 THIS JUDGE'; G) PITF'S ALSO COVER LETTER TO THE COURT FOR HIS MARSDEN MOTION STAMPED 'RECEIVED 2/9/24'; H) 1983 CAPTION PAGE; I) SMITH'S 3/8 EMAIL TO PITF INQUIRING 'HOW DO YOU PROPOSE TO OBTAIN MAIL ROOM DECLARATION'

* 252. PITF'S WRITTEN MARSDEN COMPREHENSIVELY PLEADS WITH SPECIFICITY SMITH'S COUNTLESS VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT. PITF ALSO OFFERS ORAL ARGUMENT SUPPORT THE INEFFECTIVE ASSISTANCE OF COUNSEL AND DEEPLY EMBROILED CONFLICTS.

* 253. IN RESPONSE TO PITF'S COMPLAINTS, SMITH STATES ON THE RECORD THAT: 1) DESPITE HIS/SOLE ENDORSEMENT ON THE TITLE PAGE, ALSO PROOF READING THE WTD, HE HAS NOTHING TO DO WITH IT AND IS NOT RESPONSIBLE FOR ANY SHORTCOMINGS; 2) HE WAS NOT RESPONSIBLE FOR FILING THE MAIL ROOM DECLARATION; 3) THAT PITF'S VERSION OF EVENTS IN THIS CRIMINAL MATTER (HIS DEFENSE) COULD NOT HAVE POSSIBLY HAPPENED THE WAY PITF CLAIMS!

254. PITF AGAIN CITED/COMPLAINED THAT SMITH'S PARTNER NUTTING, WAS THE STATE AGENT'S ATTORNEY, AND THERE WAS A CONFLICT. SMITH REPLIES THAT THEY ARE ONLY IN A PARTNERSHIP TO SECURE THE P.D. CONTRACT AND

355. HEALY DISREGARDS PITF'S VOLUMINOUS COMPLAINTS AND KNOWING DENIES THE PITF ACCESS TO SUBSTANTIVE ASSISTANCE OF COUNSEL. HEALY DENIES PITF'S MARSDEN MOTION.

356. SMITH IS DEMONSTRABLY MOTIVATED TO HAVE THE PITF CONVICTED IN AT LEAST SOME OF HIS CRIMINAL CHARGES OUT OF ANIMUS AND COLLUSION WITH THE SUPERIOR COURT AND DISTRICT ATTORNEY'S.

* 357. CALIFORNIA'S BOARD OF SUPERVISOR(S) / DEFENDER(S) EACH CHASE (E)ACHSEN FOR YEARS THAT THE INSUFFICIENT NUMBER OF PUBLIC DEFENDER AND CONFLICT ATTORNEYS PUNITIVELY RESULT IN CRIMINAL DEFENDANTS BEING DENIED THEIR CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF CONFLICT FREE COUNSEL.

358. DEF. JONES ENTERED INTO A CONSPIRACY WITH SMITH AND PFEIL TO PREVENT PITF FROM OBTAINING RELIEF VIA HIS 11/13 WTD.

359. JONES HID THE FACT THAT SMITH HAD GIVEN HIM THE MAILKOM DECLARATION AND INTENTIONALLY KEPT THE DECLARATION FROM THE COURT.

360. JONES WAS IN POSSESSION OF THE MAILKOM DECLARATION SINCE 11/13/23.

360. YOOL WAS AT ALL TIMES AWARE THAT THE PITF'S RIGHTS WERE BEING VIOLATED VIA THE DA'S OFFICE AND THE COURT'S UNFAIRLY PROMULGATED POLICIES.

361. AS YET TO BE IDENTIFIED/NAMED SUPERIOR COURT CLERKS ARE COMPLICIT IN HIDING THE FACT THAT ATF'S 4/24/23 IAD PACKAGE WAS RECEIVED AND FILE STAMPED AS SUCH.

362. AS YET TO BE IDENTIFIED/NAMED SUPERIOR COURT CLERKS ARE COMPLICIT IN FAILING TO FILE HIS LAWFUL PRO SE MARSDEN MOTIONS.

363. AS YET TO BE IDENTIFIED/NAMED SUPERIOR COURT CLERKS ARE COMPLICIT IN FAILING TO INCLUDE ATF'S PRO SE COMMUNICATIONS TO THE COURT FROM CT PRIOR TO 6/23/23 INTO HIS CASE FILE.

364. AS YET TO BE IDENTIFIED/NAMED SUPERIOR COURT CLERKS KNOWINGLY PROMULGATE AN UNLAWFUL PRACTICE OF INTENTIONALLY DELAYING CRIMINAL DEFENDANTS ACCESS TO THE COURT.

365. THE CLERKS OFFICE KNOWS OR SHOULD KNOW THAT CLERKS ARE REQUIRED BY LAW TO FILE PRO SE MARSDEN MOTIONS.

IV CAUSE(S) OF ACTION:

366. AS A PRELIMINARY AND QUALIFYING STATEMENT, AND SUFFICE IT TO SAY, THE INSTANT CRIMIT IS CONVOLUTED & COMPLEX. ACCORDING, THE ATF INCORPORATES HEREIN BY REFERENCE THE ENTIRETY OF THE FOREGOING PLEADINGS AND FURTHER REPRESENTS THAT ATF REASILY ANTICIPATES RECEIVING APPOINTED COUNSEL. ACCORDINGLY, THE ATF

366. (CONT'D) RESPECTFULLY SUBMITS THAT THE MAJORITY OF CAUSES OF ACTION ARE BETTER EXTRAPOLATED AND PLED IN A MORE LEGALLY MEANINGFUL MANNER BY TRAINED COUNSEL.

367. THE CALAVERAS COUNTY BOARD OF SUPERVISORS, JOINTLY & SEPARATELY, KNOWINGLY PROMULGATE AN UNLAWFUL PRACTICE OF WILLFULLY REFUSING TO ALLOCATE OR EARMARK SUFFICIENT FUNDS TO SUPPORT THE APPROPRIATE NUMBER OF PUBLIC DEFENDERS AND CONTRACTED CONFLICT PANEL ATTORNEYS. THESE DEFENDANTS HAVE KNOWN FOR YEARS THAT THIS PRACTICE IS BOTH UNLAWFUL AND DIRECTLY RESULTS IN CRIMINAL DEFENDANTS CONSTITUTIONAL VIOLATIONS.

368. DEF. HEALY IS WILLFULLY AND KNOWINGLY VIOLATING THE ATF'S CONSTITUTIONAL RIGHTS TO DUE PROCESS, SUBSTANTIVE DUE PROCESS, RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL, SUBSTANTIVE RIGHT TO COUNSEL, AND A MYRIAD OF OTHER CONSTITUTIONAL TORTS TO BE FURTHER DEVELOPED BY COUNSEL.

369. DEF. HEALY, WILLFULLY AND KNOWINGLY PROMULGATES AN UNLAWFUL PRACTICE OF FORCING INDIGENT CRIMINAL DEFENDANTS TO PROCEED WITH INEFFECTIVE/CONFLICTED COUNSEL. THIS UNLAWFUL PROMULGATED PRACTICE IS SYSTEMIC THROUGHOUT THIS JURISDICTION AND WIDELY KNOWN & ACCEPTED AS STANDARD PRACTICE.

370. DEF. SMITH IS WILLFULLY AND KNOWINGLY VIOLATING A MYRIAD OF PTF'S CIVIL RIGHTS WHILE ACTING IN CONCERT WITH STATE OFFICIALS. IN ADDITION SMITH'S DEFICIENT REPRESENTATION CONSTITUTES LEGAL MALPRACTICE.

371. DEF. FLEMING WILLFULLY AND KNOWINGLY VIOLATED PTF'S CIVIL RIGHTS WHILE ACTING IN CONCERT WITH STATE OFFICIALS. FLEMING'S DEFICIENT REPRESENTATION CONSTITUTES LEGAL MALPRACTICE.

372. ALL NAMED AND AS YET TO BE NAMED DEFENDANTS, JOINTLY AND SEPARATELY, CONSPIRED AND/OR KNOWINGLY PARTICIPATED IN UNLAWFUL PROMULGATED PRACTICES KNOWING THEY WERE VIOLATING CONSTITUTIONAL RIGHTS. ADDITIONALLY, DEFENDANTS ARE LIABLE FOR FRAUD, GROSS NEGLIGENCE, I.I.E.D., AND OTHER TORTS UNDER STATE LAW.

373. DEF. YORK WILLFULLY AND KNOWINGLY CONTINUALLY PROMULGATES AN UNLAWFUL PRACTICE OF DIRECTING AND/OR CONDONING HER DEPUTIES TO INTENTIONALLY VIOLATE CONSTITUTIONAL RIGHTS AND VIOLATE STATE LAWS/RULES PROSCRIBING MALICIOUS PROSECUTION.

374 DEF. PFEIL WILLFULLY AND KNOWINGLY LIES/MIS-REPRESENTED THE RECORD DENYING THE PTF'S CONSTITUTIONAL RIGHTS AND CONTINUALLY PARTICIPATES IN A SYSTEMIC PRACTICE OF DENYING CONSTITUTIONAL RIGHTS TO CRIMINAL DEFENDANTS.

375. DEF. JONES ACTED IN CONCERT WITH PFEIL AND GLOBALLY PARTICIPATES IN THE UNLAWFUL PRACTICE.

(43)

376. DEF. FLYE ACTED IN CONCERT WITH SMITH,
STATE OFFICIALS TO VIOLATE PITF'S CIVIL RIGHTS.
ADDITIONALLY, FLYE'S INCOMPETENT REPRESENTATION
CONSTITUTES LEGAL MALPRACTICE.

377. AS YET TO BE NAMED DEFENDANTS / COURT Clerks
WILLFULLY AND KNOWINGLY PROMULGATE AN UNLAWFUL
PRACTICE TO DENY CIVIL RIGHTS. ADDITIONALLY THESE
DEFENDANTS ARE GUILTY OF GROSS NEGLIGENCE,
MAIFEASANCE, NOUFEASANCE, MALICIOUS PROSECUTION,
AND FRAUD.

378. DEF. SUITS IS INCOMPETENT AND WILLFULLY
AND KNOWINGLY VIOLATED PITF'S CIVIL RIGHTS.

379. DEF. SILGER ACTED IN CONCERT WITH STATE
OFFICIALS TO WILLFULLY AND KNOWINGLY VIOLATE PITF'S
CIVIL RIGHTS. ADDITIONALLY, SILGER'S DEFICIENT
REPRESENTATION CONSTITUTES LEGAL MALPRACTICE.

380. DEF. NUTTING ACTED IN CONCERT WITH SMITH
AND STATE OFFICIALS TO WILLFULLY AND KNOWINGLY VIOLATE
THE PITF'S CIVIL RIGHTS. NUTTING WAS PAID A
CONSULTATION FEE BY PITF AND HIS RESULTING
REPRESENTATION OF THE STATES OWN CONSTITUTES
LEGAL MALPRACTICE, BREACH OF FIDUCIARY DUTY,
AND T.I.E.D.

381 AS YET TO BE NAMED MEMBERS OF THE DISTRICT
ATTORNEY'S OFFICE WILLFULLY AND KNOWINGLY VIOLATED
PITF'S CIVIL RIGHTS.

V RELIEF:

389. DEF. SMITH: ACTUAL DAMAGES \$250,000

390. DEF. FLYE: ACTUAL DAMAGES \$250,000

391. DEF. FLEMING ACTUAL DAMAGES \$500,000

340. DEF. SINGER ACTUAL DAMAGES \$250,000

341. DEF. NUTTING ACTUAL DAMAGES \$50,000

342. DEF. PFEIL ACTUAL DAMAGES \$500,000

343. DEF. JONES ACTUAL DAMAGES \$500,000

344. DEF. YOKE ACTUAL DAMAGES \$1,00,000

345. DEF. HEALY - DECLARATORY STATEMENT

346. DEF. SUITS - DECLARATORY STATEMENT

347. BD of SUPERVISORS COLLECTIVELY \$1,000,000

348. ATTYS FITZCAID, AVIAGES & CIUNNO \$500,000

349. \$ 4,800,000

350. PUNITIVE DAMAGES \$10,000,000

TOTAL \$14,800,000

351. THE PLAINTIFF IS RESPECTFULLY MOVING THE COURT
TO ASSUME JURISDICTION OF ATT'S UNDERLYING CRIMINAL
MATTER (22F0546) PURSUANT TO 28 U.S.C.A. 1343

By: Douglas Murphy

Douglas Murphy

1045 JEFF TUTTLE DR

SAN ANDREAS, CA 95249

Murphy.Douglas96712@gmail.com